

REMARKS

Claims 1-22 are pending in the application. Claims 1-3, 5-9, 11-15 and 17-22 are rejected under 35 U.S.C. §102(b). Claims 4, 10 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants have cancelled claims 1, 5, 7, 11, 13 and 17 without prejudice or disclaimer and hence claims 2-4, 6, 8-10, 12, 14-16 and 18-22 are pending. Applicants reserve the right to file a continuation application to capture the subject matter of originally filed claims 1, 5, 7, 11, 13 and 17. Applicants note that claims 1, 5, 7, 11, 13 and 17 were not cancelled in view of prior art but to advance prosecution. Applicants respectfully traverse these rejections for at least the reasons stated in the response having a mailing date of October 29, 2003, and file a Notice of Appeal concurrently herewith.

Applicants note that claims 2, 6, 8, 12, 14 and 18 were not amended to overcome prior art but to be written in independent form. Applicants further note that claims 3-4, 9-10, 15-16 and 19-22 were not amended to overcome prior art but to provide consistency with the cancellation of claims 1, 5, 7, 11, 13 and 17. Hence, the amendments made to claims 2-4, 6, 8-10, 12, 14-16 and 18-22 were not narrowing in scope and therefore no prosecution history estoppel arises from the amendments to claims 2-4, 6, 8-10, 12, 14-16 and 18-22. *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 62 U.S.P.Q.2d 1705, 1711-12 (2002); 56 U.S.P.Q.2d 1865, 1870 (Fed. Cir. 2000). Further, the amendments made to claims 2-4, 6, 8-10, 12, 14-16 and 18-22 were not made for a substantial reason related to patentability and therefore no prosecution history estoppel arises from such amendments. *See Festo Corp.*, 62 U.S.P.Q.2d 1705 at 1707 (2002); *Warner-Jenkinson Co. v. Hilton Davis Chemical Co.*, 41 U.S.P.Q.2d 1865, 1873 (1997).

Applicants respectfully request the Examiner to enter the amendments indicated above as the amendments place the application in better form for appeal. 37 C.F.R. §1.116; M.P.E.P. §714.13.

CONCLUSION

As a result of the foregoing, it is asserted by Applicants that claims 2-4, 6, 8-10, 12, 14-16 and 18-22 in the Application are in condition for allowance, and Applicants respectfully request an allowance of such claims. Applicants respectfully request that the Examiner call Applicants' attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining issues.

Respectfully submitted,

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